

AMENDED IN ASSEMBLY MARCH 18, 2014

AMENDED IN ASSEMBLY JUNE 19, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 48

Introduced by Senator Hill

December 19, 2012

An act to amend Section 740.1 of, and to add ~~Section 740.5~~ to Sections 740.12 and 740.13 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, Hill. Public utilities: research and development projects.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, and telephone corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law authorizes electrical corporations, gas corporations, heat corporations, and telephone corporations to voluntarily adopt certain research and development programs and authorizes the commission to allow inclusion of expenses for research and development in rates. Existing law requires the commission to consider specified guidelines in evaluating the research, development, and demonstration programs proposed by electrical corporations and gas corporations. *Existing law establishes the Energy Resources*

Programs Account and requires a specified surcharge on electricity usage to be transferred to the Energy Resources Programs Account.

This bill would authorize the commission to establish an advisory committee consisting of persons meeting specified requirements to evaluate whether proposed research and development projects meet the guidelines. The bill would, by July 1, 2016, require an electrical corporation with more than 100,000 customer accounts to create a peer review committee to evaluate whether projects meet the guidelines and to evaluate specific technical aspects of the proposed project. The bill would prohibit, except under specified conditions, the commission from approving the inclusion of expenses incurred by a project in electricity rates if the proposed project is not supplemented by a written evaluation from the peer review committee. The bill would require the commission, upon appropriation by the Legislature, to reimburse the electrical corporation for costs incurred in creating and operating the peer review committee from the Energy Resources Programs Account. The bill would require the commission, by July 1, December 31, 2015, and by December 31 of every 3 years thereafter, to require electrical corporations with more than 100,000 customer accounts, to file a 3-year research plan, which includes, among other things, proposals for specific research and development projects and the estimated costs of the projects to the ratepayers. The bill would require the Legislative Analyst's Office to select members of a peer review to evaluate the 3-year research plan of each electrical corporation and would require that the peer review consider specified matters. The bill would require the commission, by December 31, 2014, and by December 31 of each 3rd year thereafter, to prepare and submit a report to the relevant policy and fiscal committees of the Legislature listing all research and development projects where the expenses of the project were or are recovered from ratepayers during the previous 3 years, including for each project the citations of all published papers, all oral and poster presentations given at public meetings, and all patents awarded for the funded research.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because some electrical corporations would be required to create a peer review committee, a violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 740.1 of the Public Utilities Code is
2 amended to read:
3 740.1. (a) The commission shall consider the following
4 guidelines in evaluating the research, development, and
5 demonstration programs proposed by electrical and gas
6 corporations:
7 ~~(a)~~
8 (1) Projects should offer a reasonable probability of providing
9 benefits to ratepayers.
10 ~~(b)~~
11 (2) Expenditures on projects ~~which~~ *that* have a low probability
12 for success should be minimized.
13 ~~(c)~~
14 (3) Projects should be consistent with the corporation's resource
15 plan.
16 ~~(d)~~
17 (4) Projects should not unnecessarily duplicate research
18 currently, previously, or imminently undertaken by other electrical
19 or gas corporations or research organizations.
20 ~~(e)~~
21 (5) Each project should also support one or more of the
22 following objectives:
23 ~~(1)~~
24 (A) Environmental improvement.
25 ~~(2)~~
26 (B) Public and employee safety.
27 ~~(3)~~
28 (C) Conservation by efficient resource use or by reducing or
29 shifting system load.
30 ~~(4)~~

1 (D) Development of new resources and processes, particularly
2 renewable resources and processes—~~which~~ *that* further supply
3 technologies.

4 ~~(5)~~

5 (E) Improve operating efficiency and reliability or otherwise
6 reduce operating costs.

7 (b) *The commission may establish an advisory committee to*
8 *evaluate whether a research and development project meets the*
9 *guidelines described in subdivision (a). The advisory committee,*
10 *if established, shall be composed of persons who meet all of the*
11 *following requirements:*

12 (1) *Be independent of the person proposing the project.*

13 (2) *Be independent of the persons conducting the proposed*
14 *project, if different from those persons proposing the project.*

15 (3) *Be knowledgeable in the field of endeavor to which the*
16 *proposed project pertains.*

17 (4) *Be free of any financial or other interest that could*
18 *significantly impair the ability of the person serving on the*
19 *committee to be objective or that could create an unfair competitive*
20 *advantage of a person or organization.*

21 (c) *The establishment of an advisory committee is not an*
22 *unlawful delegation of the commission's authority.*

23 SEC. 2. *Section 740.12 is added to the Public Utilities Code,*
24 *to read:*

25 740.12. (a) *On or before July 1, 2016, an electrical*
26 *corporation with more than 100,000 customer accounts shall, in*
27 *consultation with the National Research Council, create a peer*
28 *review committee to evaluate whether a research and development*
29 *project proposed in an application for the inclusion of expenses*
30 *for research and development in rates pursuant to Section 740*
31 *meets the guidelines in Section 740.1 and to evaluate all of the*
32 *following technical aspects:*

33 (1) *The overall scientific or technical merits of the proposed*
34 *project.*

35 (2) *The extent to which the same or similar project could be*
36 *performed by entities that the electrical corporation does not select.*

37 (3) *The appropriateness of the level of requested funding in*
38 *comparison to other projects by similarly experienced individuals*
39 *using similar facilities performing in similar timeframes and*
40 *circumstances.*

1 (4) *The likelihood that the proposed project can be accomplished*
2 *within the proposed time and budget by the investigators or the*
3 *technical staff, given their experience and expertise and available*
4 *resources.*

5 (b) *The peer review committee shall have a membership of no*
6 *more than nine persons.*

7 (c) *The composition and policies of the peer review committee*
8 *described in subdivision (a) shall ensure that the evaluation of an*
9 *application shall be performed by persons who meet all of the*
10 *following requirements:*

11 (1) *Be independent of persons submitting the proposed project*
12 *that is included in the application.*

13 (2) *Be independent of persons conducting the project, if different*
14 *from those persons proposing the project.*

15 (3) *Be knowledgeable in the field of endeavor to which the*
16 *proposed project pertains.*

17 (4) *Be free of any financial or other interest that could*
18 *significantly impair the ability of the person serving on the*
19 *committee to be objective or that could create an unfair competitive*
20 *advantage for a person or organization.*

21 (d) *The commission shall, upon appropriation by the Legislature,*
22 *reimburse the electrical corporation for costs incurred by the*
23 *electrical corporation in consulting with the National Research*
24 *Council and in creating and operating the peer review committee*
25 *from the Energy Resources Programs Account.*

26 (e) *The commission shall not approve the inclusion of expenses*
27 *incurred by a research and development project in electricity rates*
28 *pursuant to Section 740 for a proposed project that is not*
29 *supplemented by a written evaluation from the peer review*
30 *committee. In a decision to approve the inclusion of expenses*
31 *incurred by research and development projects in electricity rates*
32 *pursuant to Section 740, the commission shall make findings on*
33 *how the written evaluation by the peer review committee informed*
34 *the decision, including aspects of the proposed projects in which*
35 *the opinion of the commission differs from the opinion of the peer*
36 *review committee.*

37 (f) *The requirement for a written evaluation pursuant to*
38 *subdivision (e) may be waived by the commission for a proposed*
39 *project listed in an application submitted to the commission if both*
40 *of the following conditions are satisfied:*

1 (1) Substantial funding for the project is contingent upon
2 approval by a state or federal agency.

3 (2) Funding for the project may be awarded by the state or
4 federal agency only after a review by persons who meet the criteria
5 in subdivision (c).

6 SEC. 3. Section 740.13 is added to the Public Utilities Code,
7 to read:

8 740.13. (a) On or before December 31, 2015, and,
9 notwithstanding Section 10231.5 of the Government Code, on or
10 before December 31 of every three years thereafter or more
11 frequently as determined by the commission, the commission shall
12 submit to the fiscal and relevant policy committees of the
13 Legislature a report listing all research and development projects
14 for which the costs of the projects were or are recovered from
15 ratepayers during the previous three years, including, for each
16 project the citations of all published papers, all oral and poster
17 presentations given at public meetings, and all patents awarded
18 for the funded projects.

19 (b) The report submitted pursuant to subdivision (a) shall be
20 submitted in compliance with Section 9795 of the Government
21 Code.

22 SEC. 4. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

31 ~~SECTION 1. Section 740.5 is added to the Public Utilities~~
32 ~~Code, to read:~~

33 ~~740.5. (a) For purposes of this section, the following terms~~
34 ~~have the following meanings:~~

35 ~~(1) "Peer review" means a thorough, consistent, and objective~~
36 ~~examination based on preestablished criteria by persons who are~~
37 ~~independent of persons submitting an application, or conducting~~
38 ~~the research and development, and who are knowledgeable in the~~
39 ~~field of endeavor to which the application or research and~~
40 ~~development pertains. Peer reviewers shall be free of any financial~~

1 or other interest which could significantly impair the individual's
2 objectivity or create an unfair competitive advantage for any person
3 or organization.

4 (2) ~~“Research and development project” includes a research,~~
5 ~~development, and demonstration project or program.~~

6 (b) ~~The commission shall, no later than July 1, 2015, and~~
7 ~~triennially thereafter, require electrical corporations with more~~
8 ~~than 100,000 customer accounts to file a three-year research plan.~~
9 ~~The plan shall include:~~

10 (1) ~~The research areas in which the utilities intend to engage.~~

11 (2) ~~Proposals for specific research and development projects,~~
12 ~~and the estimated costs of the projects to the ratepayers.~~

13 (3) ~~A proposed amount allocated for unspecified research.~~

14 (c) ~~The Legislative Analyst's Office shall select members of a~~
15 ~~peer review to evaluate the three-year research plan of each~~
16 ~~electrical corporation. The peer review shall consider the electrical~~
17 ~~corporation's research and development activities from the~~
18 ~~preceding three years in evaluating the electrical corporation's~~
19 ~~proposed research and development projects and in providing~~
20 ~~guidance to the electrical corporation for improving the projects.~~
21 ~~Members of the peer review may add supplemental reviewers on~~
22 ~~an ad hoc basis to ensure the reviewers have sufficient technical~~
23 ~~expertise to evaluate the projects. In their evaluation, the peer~~
24 ~~review shall consider the technical aspects of the electrical~~
25 ~~corporation's project including, but not limited to:~~

26 (1) ~~The overall scientific or technical merits of the proposed~~
27 ~~research and development project.~~

28 (2) ~~The extent to which the same or similar research,~~
29 ~~development, and demonstration work could be performed by~~
30 ~~entities that the public utility does not select.~~

31 (3) ~~The appropriateness of the level of requested funding in~~
32 ~~comparison to other projects by similarly experienced individuals~~
33 ~~using similar facilities performing in similar timeframes and~~
34 ~~circumstances.~~

35 (4) ~~The likelihood that the proposed work can be accomplished~~
36 ~~within the proposed time and budget by the investigators or the~~
37 ~~technical staff, given their experience and expertise and available~~
38 ~~resources.~~

39 (d) ~~The commission may waive the peer review requirements~~
40 ~~in subdivision (c) for a research and development project that was~~

1 selected through an open solicitation of proposals or if the project
2 is contingent upon a peer review by a public state or federal entity.
3 (e) (1) The commission shall prepare and submit a report to
4 the relevant policy and fiscal committees of the Legislature listing
5 all research and development projects where the expenses of the
6 project were or are recovered from ratepayers during the previous
7 three years, including for each project the citations of all published
8 papers, all oral and poster presentations given at public meetings,
9 and all patents awarded for the funded research. The first report
10 shall be submitted by December 31, 2014, and subsequent reports
11 shall be submitted by December 31 of every third year thereafter,
12 notwithstanding Section 10231.5 of the Government Code.
13 (2) A report to be submitted pursuant to paragraph (1) shall be
14 submitted in compliance with Section 9795 of the Government
15 Code.